

NOT SCHEDULED FOR ORAL ARGUMENT
IN THE UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT

AMERICAN WATER WORKS
ASSOCIATION, et al.,

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY and LEE M. ZELDIN, Administrator
of the U.S. Environmental Protection Agency,

Respondents.

Case No. 24-1188 and consolidated
cases

JOINT MOTION TO GOVERN

Respondents, Respondent-Intervenors, and Petitioners in Case Nos. 24-1188, 24-1191, and 24-1192 respectfully move the Court to issue an order regarding proceedings in this matter as set forth below.

1. Petitioners seek review of an EPA action entitled, “PFAS National Primary Drinking Water Regulation,” 89 Fed. Reg. 32532 (April 26, 2024) (“Rule”). The Rule establishes National Primary Drinking Water Regulations for PFOS and PFOA, two contaminants in a class of compounds known as per- and polyfluoroalkyl substances (“PFAS”). The Rule also sets forth regulatory determinations and establishes National Primary Drinking Water Regulations for

three additional PFAS compounds—PFHxS, PFNA, and HFPO-DA—as well as mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and/or PFBS.

2. Petitioners filed their opening briefs on October 7, 2024; Amici on behalf of Petitioners filed their brief on October 29, 2024; Respondents filed their brief on December 23, 2024; Respondent-Intervenors filed their brief on January 17, 2025; and Amici on behalf of Respondents filed their briefs on January 17, 2025.

3. Petitioners have not yet filed their reply briefs and oral argument has not yet been scheduled.

4. On February 7, 2025, Respondents sought and this Court granted a 60-day abeyance of proceedings in this matter, which the Court continued through July 21, 2025. ECF No. 2099439; ECF No. 2099658; 2109980, 2110289, 2115469, 2115832, 2119087, 2119400. On July 22, 2025, the Court issued an order directing the parties to submit a proposed schedule and format for the completion of briefing by August 1, 2025.

5. EPA announced its planned actions with respect to the challenged Rule on May 14, 2025. *See* <https://www.epa.gov/newsreleases/epa-announces-itwill-keep-maximum-contaminant-levels-pfoa-pfos>. In that announcement, EPA stated that it intends to retain the Rule’s current National Primary Drinking Water

Regulations for PFOS and PFOA. Separately, EPA intends to develop a rulemaking to provide additional time for compliance with the standards for PFOS and PFOA, including a proposal to extend the compliance date to 2031. *Id.* EPA plans to issue a proposed rule this fall and finalize this rule in the Spring of 2026. *Id.* EPA also announced that it intends to rescind the Rule's National Primary Drinking Water Regulations for PFHxS, PFNA, HFPO-DA, and mixtures containing two or more of those compounds and/or PFBS, and to reconsider the regulatory determinations for those contaminants. *Id.*

6. To address these changes in the Agency's approach to these contaminants, Respondents intend to file either a motion or letter with the Court clarifying their position in this litigation.

7. Because that filing likely will impact the remainder of briefing in this matter, the parties respectfully request the Court enter an order directing the following:

- a. On or before **September 10, 2025**, Respondents shall file with the Court either a motion or letter clarifying their position in litigation.

- i. If Respondents' filing takes the form of a motion, the parties may file any responses and replies consistent with Rule 27.
 - ii. If Respondents' filing takes the form of a letter, Petitioners and Respondent-Intervenors may file a response equal in length to the letter within 10 days of Respondents' letter.
- b. On or before **September 17, 2025**, the parties shall file a proposed briefing schedule for all remaining merits briefing in this matter.

Respectfully submitted,

ADAM R.F. GUSTAFSON
Acting Assistant Attorney General

ROBERT STANDER
Deputy Assistant Attorney General

/s/ Kimere J. Kimball
KIMERE J. KIMBALL
U.S. Department of Justice
Env't & Natural Resources Div.
P.O. Box 7611
Washington, DC 20044
(202) 514-2285 (Kimball)
Kimere.Kimball@usdoj.gov
Counsel for Respondents

/s/ Corinne V. Snow
CORINNE V. SNOW
Vinson & Elkins LLP
2200 Pennsylvania Avenue NW
Suite 500 West
Washington, DC 20037
Phone: (202) 639-6622
Fax: (917) 879-8998
Email: csnow@velaw.com
*Counsel for Petitioners American
Water Works Association and
Association of Metropolitan Water
Agencies in No. 1188*

/s/ Suzanne Novak

SUZANNE NOVAK

HILLARY AIDUN

Earthjustice

48 Wall St., 15th floor

New York, New York 10005

(212) 823-4981

(212) 284-8040

snovak@earthjustice.org

haidun@earthjustice.org

Counsel for Respondent-Intervenors

Buxmont Coalition for Safe Water, Clean

Cape Fear, Clean Haw River, Concerned

Citizens of WMEL Water Authority

Grassroots, Environmental Justice Task

Force, Fight for Zero, Merrimack Citizens

for Clean Water, and Newburgh Clean

Water Project

/s/ Jared J. Thompson

JARED J. THOMPSON

Natural Resources Defense Council

40 West 20th Street

New York, NY 10011

(202) 513-6249

jared.thompson@nrdc.org

KAREN CHEN

Natural Resources Defense Council

111 Sutter Street, 21st Floor

San Francisco, CA 94104

(415) 875-8261

kchen@nrdc.org

Counsel for Respondent-Intervenor

Natural Resources Defense Council

August 1, 2025

/s/ Tobias S. Loss-Eaton

GORDON D. TODD

TOBIAS S. LOSS-EATON

Sidley Austin LLP

1501 K Street NW

Washington, DC 20005

(202) 736-8711

tlosseaton@sidley.com

MICHAEL B. KIMBERLY

Winston & Strawn LLP

1901 K Street NW

Washington DC 20006

(202) 282-5096

mkimberly@winston.com

Counsel for Petitioners National

Association of Manufacturers &

American Chemistry Council in No. 24-

1191

/s/ Allon Kedem

ALLON KEDEM

Arnold & Porter Kaye Sholer LLP

601 Massachusetts Ave., NW

Washington, DC 20001

(202) 942-5000

Allon.kedem@arnoldporter.com

Counsel for Petitioner the Chemours

Company FC, LLC in No. 24-1192

CERTIFICATE OF COMPLIANCE

This document complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f), this document contains 536 words.

This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Finally, I certify that on August 1, 2025, I electronically filed this document with the Court's CM/ECF system, which will serve each party's counsel of record.

/s/ Kimere J. Kimball
KIMERE J. KIMBALL